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REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Commissioner for Patents
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Application Number	09/730,627
Filing Date	December 6, 2000
First Named Inventor	Mohan Vishnupad
Art Unit	1751
Examiner Name	MRUK, Brian P.
Attorney Docket Number	370-19

RECEIVED
FEB 24 2003
TC 1700

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- iii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-2140
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) 02/21/2003 AWONDAF1 00000130 09730627
- iii. ☐ Other 01 FC:2801 375.00 00
- b. ☒ Check in the amount of \$ 375.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print IType)	Peter DeLuca	Registration No. (Attorney/Agent)	32,978
Signature		Date	February 18, 2003

CERTIFICATE UNDER 37 C.F.R. 1.10

I hereby certify that this correspondence and the documents referred to as enclosed are being deposited with the United States Postal Service on date below in an envelope as "Express Mail Post Office to Addressee" Mail Label Number EV 108766025 US addressed to: Assistant Commissioner for Patents, Box RCE, Washington, D.C. 20231.

Name (Print IType)	Francesco Sardone	Date	February 18, 2003
Signature			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant(s): Mohan Vishnupad et al.

Examiner: Brian P. Mruk

Serial No.: 09/730,627

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Group: Art Unit 1751

FEB 24 2003

Filed: December 6, 2000

TC 1700

Docket: 370-19

Dated: May 28, 2002

For: ANHYDROUS CREAMS, LOTIONS AND GELS

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE

In response to the Advisory Action mailed November 12, 2002, reconsideration of the present application is respectfully requested in view of the following remarks.


The Advisory Action states that Applicant's previously filed remarks and arguments were deemed unpersuasive because "the examiner construed the phrase "substantially anhydrous" to mean less than 5% by weight of water". However, a different definition is specifically provided in Applicant's specification. Specifically, the first full paragraph on page 3 of the specification as filed states:

"The compositions are also substantially anhydrous. That is, other than the water of hydration contained in the various components used to formulate the product, *no free water is added to the composition.*" (Emphasis added.)

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: February 18, 2002


Peter DeLuca

An Applicant is entitled to be his own lexicographer (M.P.E.P. §2111.01) and the Examiner is required to accept definitions of claim terms that are presented in an Applicant's specification. As noted in M.P.E.P. §2106:

"Office personnel must rely on the applicant's disclosure to properly determine the meaning of terms used in the claims. An applicant is entitled to be his own lexicographer, and in many instances will provide an explicit definition for certain terms used in the claims. Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim." (Citations omitted.)

In the present case, Applicant has expressly defined the term "substantially anhydrous" as meaning that no free added water is present. To the extent that the compositions contain any water, that water is merely the water of hydration of the components used to form the product. It is respectfully submitted that the adoption of any other definition of "substantially anhydrous" would be improper.

The claims presently recite substantially anhydrous compositions that include, *inter alia*, polyacrylamide thickeners. Considering the proper definition of "substantially anhydrous", it is not seen where any of the prior art applied in the Office Action teaches or suggests substantially anhydrous compositions that include a thickener that comprises a polyacrylamide.

In view of the foregoing, this application is believed to be in condition for allowance. Such early and favorable action is earnestly solicited.

Respectfully submitted,



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